

CHAPTER XII

PROCUREMENT.

SECTION 12.00. (Procurement methods). All contracts for the sale or purchase of supplies, materials, equipment, or the rental thereof, or the construction, alteration, repair, or maintenance of real or personal property shall be entered into by competitive bids, competitive proposals, quotations, or in the open market in accordance with the procedures and within the limitation prescribed by state law and this charter. (amended by Ord. # 3949, approved November 16, 2009; effective February 15, 2010)

SECTION 12.01. (Estimate required). As the first step toward making such a contract, the common council or board having authority to contract shall procure an estimate of the cost thereof. If competitive bids are not required, the proper department or officer may be directed to procure such contract by competitive proposals, quotations, or in the open market pursuant to state law. If competitive bids are required, the procedures hereinafter prescribed shall be followed. (amended by Ord #3949, approved November 16, 2009; effective February 15, 2010)

SECTION 12.02. (Specifications). Before advertising for bids, the common council or board, shall cause to be prepared by the proper department or officer of the city, and filed with the clerk, detailed plans and specifications for the proposed purchase of supplies, materials, equipment, or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property. If the common council, or board, shall desire to consider different methods or different commodities, it shall cause to be prepared separate estimates for each method or each variety of commodity which it desires to consider. (amended by Ord # 3949, approved November 16, 2009; effective February 15, 2010)

SECTION 12.03. (Advertising). Subdivision 1. After filing the same, the common council shall direct the city clerk, or, if the matter is in the hands of a board, such board shall direct its clerk or secretary to advertise for bids for doing or furnishing said commodities or service in accordance with such contract, plans or specifications, and, if there be specifications for different methods or different commodities, or both, he shall advertise for bids for doing or furnishing said commodities or service in each of said respective ways. Such advertisement shall be published in the official paper, once at least one week before the letting of the contract and in such other manner as the common council, or such board, may direct.

Subd. 2. All advertisements for bids shall clearly state the date, time and location that such bids are to be received and opened. (Amended by Ord. #3949, approved November 16, 2009; effective February 15, 2010)

SECTION 12.04. (Security required). In advertising for bids, the common council or board shall require the bidder to deliver his bid and cash, a certified check, cashier's check, or bid bond payable to the City of Rochester for at least five percent of the total of such bids, which amount thereof shall be forfeited to the City as liquidated damages, if the bidder, upon

letting of the contract to him, shall fail to enter into the contract so let. All advertisements for bids shall reserve the right to reject any and all bids.

(Adopted by Ord. No. 3200, effective January 8, 1999; amended by Ordinance # 4043 on December 19, 2011 and effective on April 2, 2012)

SECTION 12.05. (Bid opening). At the time and place set in the advertisement for bids, the city clerk or board secretary and a city official or agent of the department initiating the project or purchase shall meet and publicly receive, open and read all bids that may be presented and that meet the minimum reasonable threshold requirements that may be adopted by the City. Before any of said bids are opened they shall be numbered consecutively, and no further bids shall be received after any bid has been opened. No bids shall be considered when not accompanied by the appropriate bid security. All bids shall remain in the custody and control of the city clerk or board secretary and may be open to inspection as allowed by the Minnesota Government Data Practices Act.

(Amended by Ordinance No. 3751 – effective February 22, 2006)

SECTION 12.06. (Award of contract). The common council or board shall act upon such bids and determine which one shall be accepted. All contracts for which public bidding is required shall be awarded to the lowest responsive and responsible bidder complying with the foregoing requirements, provided, that the common council, or board, may reject any bids which it may deem unreasonable or unreliable, and the common council, or board, in determining the reliability of a bid, shall consider the question of the responsibility of the bidder and his ability to perform his contract, without any references to the responsibility of the sureties upon his bond, and any person who shall have defaulted in any contract awarded by the city, except as to time, or who within ten years prior to said bidding shall have refused to enter into a contract after the same shall have been awarded to him, shall not be considered a reliable and responsible bidder.

(Amended by Ord. # 3949, approved November 16, 2009; effective February 15, 2010)

SECTION 12.07. (Rejection of bid). The common council or board may reject any or all bids and abandon the proposed contract, or it may require the clerk or secretary to re-advertise for new bids in the manner hereinbefore provided and the common council or board may again reject all bids. After receiving a bid, or bids, or after having advertised and not having received any bid, the common council or board may either abandon the proposed contract or cause the proper department of the city to procure the necessary commodities, implements, machinery, labor and service and carry out the proposed improvement, work or other purpose.

SECTION 12.08. (Execution). Subdivision 1. All contracts shall be executed by the bidder within ten days after the contract is ready for his signature, and if not executed by him in said time, he shall be deemed to have abandoned the same.

Subd. 2. After the acceptance by the common council or board of any bids, it shall direct the execution of a contract by the proper officer, in accordance therewith and also in accordance with said plans, specifications and proposed contract, and such contracts shall be carried out by the proper officer of the city, as in this charter provided.

SECTION 12.09. (Procurement in open market). In case the common council or board shall determine that any commodities or service are to be procured in open market, the same shall be procured or done by the proper department or officer in accordance with such general directions as the common council or board may give. Procurement in the open market shall include cooperative purchasing as defined by state law. (Amended by Ord. # 3949, approved November 16, 2009; effective February 15, 2010).

SECTION 12.091. (Procurement by competitive proposals.) In case the common council or board shall determine that a contract shall be awarded based on competitive proposals, the plans and specifications shall identify the criteria, in addition to price, that shall be used in awarding the contract. The competitive proposal process may be used for any contract that state law allows. The common council shall award the contract to the vendor or contractor offering the best value, taking into account the specifications of the request for proposals, and the price and performance criteria identified in the solicitation documents.
(Added by Ord. #3949 approved on November 16, 2009, effective February 15, 2010)

SECTION 12.10. (Emergency procurement). In case of emergency, and when the delays occasioned by the strict compliance with this charter relative to the furnishing of commodities, or performance of work or services, will cause great damage to the public interest, or endanger public safety, the head of any department, with the written approval of the mayor, may make necessary repairs by day labor and procure materials therefor in the open market.

SECTION 12.11. (Assignment prohibited). No contract for which a bond is required shall be assigned or transferred except by consent of the common council or board expressed by resolution. Any assignment or transfer not so approved shall fully end and determine such contract and make the same null and void as to any other or further performance thereof by the contractor or assigns, without any act on the part of the city, and the city may at once proceed to relet such contract, or complete the same as the agent and at the expense of such contractor and sureties.

SECTION 12.12. (Affidavit required) . Before any contractor or his personal representatives shall receive any estimates or payments on any contracts for which a bond or deposit is required, as provided in this chapter, said contractor or his representatives shall make and file with the city clerk, or the clerk or secretary of such board as shall have the matter in charge, an affidavit that all claims for all work and labor to date, on the work for which an estimate or payment is asked, has been duly paid.

SECTION 12.13. (Void contract). Any contract made in violation of the provisions of this chapter shall be absolutely void, and any money paid on account of such contract by the city, or any department or officer thereof, may be recovered by the city, without restitution of the property or the benefits received or obtained by the city thereunder.

